IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 555255-012562

Group Art Unit:	2454	
Examiner:	Mohammad A. Siddiqi	
Inventor:	Willy Maurice Verbestel	**REQUEST FOR PRE-APPEAL BRIEF PANEL REVIEW**
Serial No.:	10/773,486	
Filed:	February 6, 2004	
For:	System and Method of Providing Content In A Multicast System	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The examiner has finally rejected claims 1-23, 26, and 27 under 35 U.S.C. §102(e) as being anticipated by Sarkkinen (U.S. Patent Pub. No. 2005/0015583). The assignee hereby requests review of the final rejection prior to filing an appeal brief for the reasons set forth below because the final rejection fails to make a *prima facie* case of unpatentability and there is clear error in the rejections of these claims. Any fees due should be charged to Jones Day Deposit Account No. 501432, ref: 555255-012562.

Claim 1 – The cited Sarkkinen reference fails to teach sending from the user device the generated broadcast key over a network, wherein the generated broadcast key indicates that multicast content is to be provided to the user device.

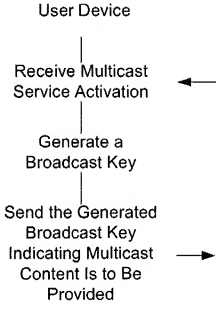
Claim 1 recites:

> 1. (**Original**) A multicast content accessing method for use on a user device, wherein a multicast service provides the multicast content, comprising:
> receiving multicast service activation data over a network;
> generating on the user device a broadcast key;
> sending ***from*** the user device the generated broadcast key over a network;

wherein the generated broadcast key indicates that multicast content is to be provided to the user device.

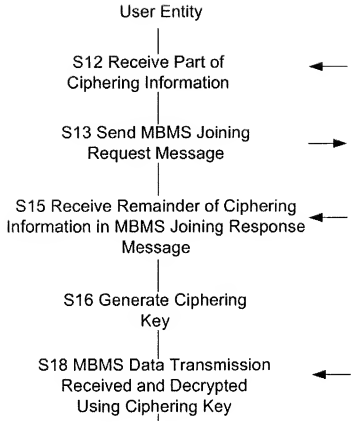
In rejecting claim 1, the office action maintains that Sarkkinen discloses the features of claim 1. For example, the office action maintains that paragraphs 22-26 of Sarkkinen disclose that a broadcast key is generated on the user device and that the generated broadcast key is sent from the user device over a network as recited in claim 1.

The processing of claim 1 includes:



The arrows in the processing flow indicate what is being received and sent from a user device.

Sarkkinen does not disclose such processing. In rejecting claim 1, the office action cites to FIG. 7 as disclosing the multicast content accessing method of claim 1. The Sarkkinen process of FIG. 7 is summarized below as described in paragraphs [0291]-[0295]:



It is clear that none of the cited portions of Sarkkinen teach the step of sending from the user device the generated broadcast key over a network, where the generated broadcast key indicates that multicast content is to be provided to the user device. FIG. 7 of Sarkkinen shows part of the ciphering information being sent to the UE upon service registration/subscription and the remainder of the ciphering information being sent to the UE following a join request. The ciphering key is then generated at S16 and used to decrypt the data transmission at S18. The ciphering key in Sarkkinen is not sent ***from*** the user entity. This is because the ciphering key of Sarkkinen is used as a key to decrypt a received data stream. In contrast, the key of claim 1 is sent from the user device because the claim 1 broadcast key is used to indicate that multicast content is to be provided to the user device. The Sarkkinen key is very different in form and function, and, therefore, it does not meet the limitations associated with the key in claim 1.

Following submission of the above arguments in an after final response, an advisory action was received on April 15, 2009. The advisory action states:

> In response to applicant's argument that Sarkkinen does not disclose "sending from the user device the generated broadcast key over a network..." Examiner respectfully disagrees. Sarkkinen discloses the broadcast/multicast key is decrypted at the user entity (user device), however, the input parameters for ciphering the broadcast key is sent to the user device at the time of registration (para #0028) and stored at the user device (para #0032). Generating a multicast/broadcast key requires ciphering key which is stored in the user device to decrypt the multicast/broadcast key. Therefore, Sarkkinen discloses generating on the user device the broadcast key.

It is respectfully submitted that the discussion provided in the advisory action is not on point with the argument made by assignee in the after final response. Assignee has not argued that Sarkkinen does not disclose the generating the broadcast key on the user device limitation. In fact, the illustration appearing on page 3 of this pre-appeal brief depicts the Sarkkinen user entity generating a key at S16. The claim limitations that assignee has argued are not taught in Sarkkinen are the last two limitations:

> sending ***from*** the user device the generated broadcast key over a network;
> wherein the generated broadcast key indicates that multicast content is to be provided to the user device.

None of the cited portions of Sarkkinen teach the sending of a generated broadcast key ***from the user device*** over a network, let alone sending a key that indicates multicast content is to be provided to the user. This is clearly shown in the illustration on page 3 of this brief, which shows the only transfer from the user entity is the MBMS joining request at S13. The transfer at S13 could not possibly include the key because the key is not even generated until S16. The only transfer of data discussed in the advisory action comments is a transfer of input parameters for ciphering the broadcast key **to** the user entity. There is no teaching of sending a broadcast key **from** the user device as required by claim 1.

This difference between Sarkkinen and the claims at issue is logical because the two keys are completely different in function and purpose. The Sarkkinen key is used to decrypt received data at the user entity. In contrast, the key of claim 1 is sent **from** the user device to indicate that content is to be provided to the user device. Because the Sarkkinen key is for a very different purpose than the key of claim 1, it is natural that Sarkkinen does not teach the claimed limitations. Because Sarkkinen does not teach at least the above described limitations, it is requested that the § 102 rejection of claim 1 be withdrawn.

Independent claim 26 contains the limitation of the generated broadcast key indicating that content is to provided to the user device, and independent claim 27 includes a similar limitation plus means for sending from the user device the generated broadcast key over a network. Because Sarkkinen does not teach these claimed limitations, it is respectfully requested that the § 102 rejections of claims 26 and 27 be withdrawn for similar reasoning as offered for claim 1.

For at least the above reasons, the assignee submits that the rejection of claims 1, 26, and 27 are clearly in error and must be withdrawn. The Panel is therefore respectfully requested to withdraw the rejections of claims 1-23, 26, and 27 and to pass this case to issue.

Respectfully submitted,
JONES DAY

By: _____

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